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Attorneys for Defendants

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

TODD ASHKER and DANNY TROXELL,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, R. Q.
 HICKMAN, EDWARD ALAMEIDA, JR.,
 JEANNE WOODFORD, JOE McGRATH,
 CAROL DALY, RICHARD KIRKLAND,
 GRAY DAVIS, SUSAN FISHER, BRETT
 GRANLUND, SHARON LAWIN, GEORGE
 LEHMAN, JONES M. MOORE, KENNETH L.
 RISEN, MR. ROOS, LARRY STARN,
 BOOKER T. WELCH, PETE WILSON,

Defendants.

Case No.: C 05-03286-CW (JL)

**DECLARATION OF BRENDAN KENNY
 IN SUPPORT OF DEFENDANTS'
 MOTION FOR SUMMARY JUDGMENT
 OR, IN THE ALTERNATIVE,
 SUMMARY ADJUDICATION
 PURSUANT TO FED. R. CIV. P. 56(c)
 AND CIV. L.R. 7-2**

Judge: The Honorable Claudia Wilken
 Courtroom: 2
 Trial Date:

I, Brendan Kenny, declare as follows:

1. I am an attorney at law duly licensed to practice law in the State of California, and I am an associate at the law firm of Andrada & Associates, attorneys of record for defendants ARNOLD SCHWARZENEGGER, R. O. HICKMAN, EDWARD ALAMEIDA, JR., JEANNE WOODFORD, JOE McGRATH, CAROL DALY, RICHARD KIRKLAND, GRAY DAVIS, SUSAN FISHER, BRETT GRANLUND, SHARON LAWIN, GEORGE LEHMAN, JONES M. MOORE, KENNETH L. RISEN, MR. ROOS, LARRY STARN, BOOKER T. WELCH, and PETE WILSON in the above-captioned action. I have personal knowledge of the facts declared herein and, if called upon, I could

1 testify completely thereto. The matters set forth in the accompanying memorandum of points and
2 authorities are true and correct, and incorporated herein by reference as though fully set forth.

3 2. Attached as Exhibit "A" are true and correct copies of the following documents stored in
4 the Central File ("C-File") of plaintiff Todd Ashker with the corresponding declaration from the
5 custodian of records: (1) a CDC 128-B form dated August 2, 2001; (2) CDC 1030 forms dated August
6 24, 2001; (3) a CDC 128-B form dated December 31, 2001; (4) CDC 1030 forms dated March 21, 2002;
7 (5) a CDC 128-B-2 form dated February 19, 2002; and (6) a CDC 12-B-2 form dated July 8, 2003.

8 3. Attached as Exhibit "B" are true and correct copies of the following documents stored in
9 the C-File of plaintiff Danny Troxell with the corresponding declaration from the custodian of records:
10 (1) a CDC 128-B-2 form dated August 1, 1995; and (2) a CDC 128-B-2 form dated July 8, 2003.

11 4. On or about March 13, 2006, I received from Deputy Attorney General Michael Jorgenson
12 (former attorney of records for the defendants in the above-captioned case) records requested from the
13 Victim Compensation and Government Claims Board ("VCGCB") containing the plaintiffs' claims
14 challenging their parole denial and access to prison programs. Attached hereto as Exhibit "C" is a true
15 and correct copy of the documents requested from the VCGCB regarding Todd Ashker's claim with its
16 corresponding declaration from the custodian of records. Attached hereto as Exhibit "D" is a true and
17 correct copy of the documents requested from the VCGCB regarding Danny Troxell's claim with the
18 corresponding declaration from the custodian of records.

19 I declare under penalty of perjury under the laws of the State of California and the United
20 States of America that the foregoing is true and correct and that this declaration was executed on
21 February 26, 2008, at Oakland, California.

22
23 
24 BRENDAN KENNY

EXHIBIT A

STATE OF CALIFORNIA—DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

DIVISION OF ADULT OPERATIONS
PELICAN BAY STATE PRISON5905 Lake Earl Drive
P. O. Box 7000
Crescent City, CA 95532-7000

DECLARATION OF CUSTODIAN OF RECORDS

I, Donna Sackett, declare as follows:

I am a Correctional Case Records Manager employed by the California Department of Corrections and Rehabilitation at Pelican Bay State Prison, Crescent City, CA. In this capacity, I am the duly authorized custodian of records maintained on inmates committed to the custody of the California Department of Corrections and Rehabilitation and housed at this institution.

A central file is maintained on each inmate housed in the California Department of Corrections and Rehabilitation. The file is maintained by the Records Office at each institution housing the inmate, and transferred with the inmate to any other institution.

The documents and entries in documents pertaining to an inmate are prepared at or near the time of their occurrence by persons with knowledge of the circumstances or events.

The documents attached hereto are true and correct copies of documents from the file of Inmate Asker, CDC# C55191, maintained in the regular course of business by the Department of Corrections and Rehabilitation at this institution.

I declare under penalty of perjury that I am competent to testify as a witness and that the foregoing is true and correct, based on my personal knowledge. Except for those statements based on information and belief and as to those statements I believe them to be true, and that if called as a witness, I would so testify.

Executed on 2-20-08, at Crescent City, California.

A handwritten signature in dark ink, appearing to read "D. Sackett", written over a horizontal line.

DONNA SACKETT

Correctional Case Records Manager

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

NAME: **ASHKER, Todd**CDC #: **C-58191**

CDC 128-B (REV. 4/74)

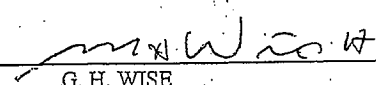
On Wednesday, August 1, 2001, an investigation was initiated in reference to Inmate **Todd ASHKER, C-58191, AKA "Todd,"** per the California Code of Regulations, Section 3378 (d) (e), regarding his current gang status. **ASHKER** was validated on May 23, 1988, and re-validated on July 13, 1995, as a member of the **Aryan Brotherhood (AB) prison gang**. The last source item used in the validation indicating gang activity is March 22, 1988. The source items used to validate **ASHKER** are over six (6) years old. Therefore, per the California Code of Regulations, 3378 (d) (e), **ASHKER** meets criteria for review of the Inactive Status. An investigation into the following areas was conducted:

1. (Central File) On August 1, 2001, Correctional Lieutenant G. Wise conducted a Central File review, into **ASHKER's** possible In-Active Gang status. During the review, new information was discovered documenting **ASHKER's** participating in gang activity. The following items were reviewed:

- Confidential Memorandum dated June 29, 2001, authored by Correctional Sergeant M. Randolph of the Institutional Gang Investigations Unit at PBSP. In the memorandum, an inmate proven reliable, relates that **ASHKER** and other AB members/ associates were trying to set up to be killed a white inmate who was in disfavor with the gang. This was in February 2000.
- Confidential Memorandum dated June 18, 2001, authored by Correctional Officer T. Drew of the Institutional Gang Investigations Unit at the California Correctional Institution (CCI). In the memorandum he documents reviewing out going mail which relates **ASHKER** is still in authority in the gang and to forward gang info to him.
- Confidential Memorandum dated February 23, 2001, authored by Correctional Lieutenant G. Wise of the Institutional Gang Investigations Unit at Pelican Bay State Prison (PBSP). In the memorandum he documents searching property belonging to **ASHKER** and finding several items of personal property that are gang related and/ or indicates he is still associating with the gang.
- Confidential Memorandum dated February 22, 2001, authored by Correctional Officer T. Puget of the Security Squad at PBSP. In the memorandum, an inmate proven reliable, relates that **ASHKER** had sent several coded messages to the mainline to tell the non-validated AB associates running the yard for the AB, to continue to kill Black Inmates. The source also states that **ASHKER** and other AB members in the Security Housing Unit (SHU) were referred to regularly as leaders in the war with the Blacks. This was in May 2000.

Based on the above information and documentation, it appears that **ASHKER** is still continuing to affiliate and/or associate with the Aryan Brotherhood (AB) prison gang. The most recent item of documentation indicating **ASHKER** continues gang activity was a Confidential Memorandum dated June 18, 2001, which was within the past six (6) years and; therefore, he does not qualify at this time for referral to the Department Review Board (DRB) for their review.

Pursuant to the California Code of Regulations, Section 3378 (d) (e), this investigator recommends that the gang status of Inmate **Todd ASHKER, C-58191**, as a validated member of the **Aryan Brotherhood (AB) prison gang** remain unchanged. At **ASHKER's** request, he will be eligible for Inactive Gang status review on June 18, 2007. This date is based on the date of the latest gang activity, which is contained in Confidential Memorandum dated June 18, 2001.


 G. H. WISE
 CORRECTIONAL LIEUTENANT
 INSTITUTION GANG INVESTIGATOR
 INACTIVE GANG STATUS REVIEW
 PELICAN BAY STATE PRISON

Distribution:

Central File ✓
 Special Services Unit
 Inmate/Parolee
 Gang Unit Copy

DATE: August 2, 2001

ACTIVE/INACTIVE GANG STATUS REVIEW

CDC 128B

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following:

New information was discovered documenting your participating in gang activity. You are identified as an AB member trying to set up the murder of another inmate.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

cm dated 6/29/01. authored by Sgt M. Randolph, located in the Conf. file.

Brase CCI 8/24/01

STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C 58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☒ Other (EXPLAIN) mail

3) Disclosure of information received.

The information received indicated the following:

Out going mail
which identifies Ashker as still
in authority in the prison gang.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation. (for example: CDC-128-B of 5-15-86 in the confidential material folder).

CM dated June 18, 01 authored by
C/O T Drew located in the Conf. file
BRAN CCL 8/24/01
 STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.
This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☒ Other (EXPLAIN) Searching of Ashker's Property

3) Disclosure of information received.

The information received indicated the following: documents searching
of property belonging to Ashker and
finding personal property that
relates to gang activity

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder). cm dated 2/23/01 authored by

Lt. H. Wise, located in Conf. File
BRase CCI 8/24/01
STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: You have been identified
as sending coded messages to J.P.
telling non validated AB associates
to continue to kill Black inmates

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

CM dated 2/22/01 authored by
Go J. Puget located in the Conf. file
Brose ECI 8/24/01
 STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

NAME: ASHKER, Todd

CDC #C-58191

CDC 128-B (REV. 4/74)

On Friday, December 28, 2001, an investigation was initiated in reference to inmate Todd ASHKER, C-58191, to update his current gang status. ASHKER was originally validated on May 23, 1988, and re-validated on July 13, 1995, as a member of the Aryan Brotherhood (AB) prison gang. The source items used in the validation were examined to ensure they comply with the Department Operations Manual (DOM), Section 61020.7 and requirements established in the California Code of Regulations (CCR) regarding prison gang validation.

ASHKER's Central File was examined and the source items used to validate him as a member of the AB were found to comply with California Department of Corrections (CDC) requirements.

The Central File of ASHKER also revealed the following documents that contained recent activity with the AB prison gang:

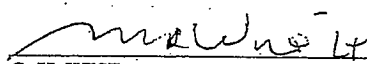
- ① Confidential Memorandum dated August 22, 2001, authored by Correctional Officer W. Shaw of the Institutional Gang Investigations Unit (IGI) at the California Substance Abuse & Treatment Facility (State Prison CSATF/SP). In the memorandum, an inmate who has met the department's criteria of reliability, identified ASHKER ordering AB authorized "hits" (assaults) of other inmates around July of 1999.
- ② Confidential Memorandum dated July 30, 2001, authored by Correctional Sergeant J. Akin of IGI at Pelican Bay State Prison (PBSP). In the memorandum, an inmate who has met the criteria of reliability as described as Title 15, identifies ASHKER as ordering other inmates in October 2000, to conduct AB ordered "hits" of other inmates. The source also states that ASHKER was recruiting for the AB gang as well.
- ③ Confidential Memorandum dated July 16, 2001, authored by Correctional Officer T. Drew of IGI at the California Correctional Institution (CCI). In the memorandum, an inmate who has met the criteria of reliability as described in Title 15, identifies ASHKER as an active AB member and holding a leadership capacity in the organization.
- ④ Confidential Memorandum dated June 19, 2001, authored by Correctional Officer E. Young at PBSP. In the memorandum, he documents ASHKER and other AB members/associates discussing gang related business over the tier on April 19, 2001.
- ⑤ Confidential Memorandum dated June 18, 2001, authored by Correctional Officer T. Drew of IGI at CCI. In the memorandum, he documents reviewing two (2) outgoing correspondences from an AB member in which AB gang business is discussed and the member references that ASHKER is to be informed of this gang business. The letters were dated in June 2001.
- ⑥ Confidential Memorandum dated June 29, 2001, authored by Correctional Sergeant M. Randolph of IGI at the PBSP. In the memorandum, an inmate who has met the criteria of reliability as described in Title 15, identifies ASHKER and other AB members/associates orchestrating gang related meetings while in an outside court. This was being done by subpoenaing AB members/associates as witnesses in a fellow AB member's/associate's trial. This was in February 2000.

The above documentation is being forwarded to the Law Enforcement & Investigations Unit (LEIU) to update ASHKER's gang status with the Aryan Brotherhood prison gang. The items reviewed comply with the Department Operations Manual (DOM), Section 61020.7 and requirements established in the CCR regarding gang activity.

On December 28, 2001, ASHKER refused to be escorted to the Institutional Gang Investigations Unit for interview and participation in taking of photographs. A copy of this CDC 128B was sent to ASHKER in the institutional mail. At ASHKER's request, he will be eligible for an Inactive Gang Status review in June 2007. This date is based upon information contained in the above reports.

Distribution:

Central File: ✓
 Law Enforcement & Investigations Unit:
 Inmate/Parolee:
 Gang Unit Copy:


 G. H. WISE
 CORRECTIONAL LIEUTENANT
 INSTITUTION GANG INVESTIGATOR
 PELICAN BAY STATE PRISON

DATE: December 31, 2001

GANG VALIDATION UPDATE

CDC 128B

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: Identifies Ashker as
an active AB member and holding a
leadership capacity in the organization.

(If additional space needed, attach another sheet.)

- 4) Type and current location of documentation, (for example: CDC 128-B of 5-15-86 in the confidential material folder). Conf. Memo dated July 16, 01 authored by
C/O T Brown located in Conf. material folder
BRose CCI 3/21/02
- STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

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STAFF NAME, TITLE

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3) Disclosure of information received.

The information received indicated the following:

Identified Ashker
ordering AB authorized "hits" (assaults)
of other inmates around July of 1999.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Conf Memo dated 8/22/01 authored by
C/O Shaw located in conf. material folderB. Ross CCT
STAFF SIGNATURE, TITLE3/21/02
DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

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This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: Identifies Ashker as
ordering other inmates in Oct 2000
to conduct AB ordered hits on other
inmates. Ashker was recruiting for the
AB gang as well.

(If additional space needed, attach another sheet.)

- 4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder). Conf Memo dated 9/30/01 authored by Sgt
T Arroy located in Conf material folder
BRUCE COT 3/21/02
 STAFF SIGNATURE, TITLE DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

a) ☐ This source has previously provided confidential information which has proven to be true.b) ☐ This source participated in and successfully completed a Polygraph examination.c) ☐ More than one source independently provided the same information.d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.e) ☐ Part of the information provided by the source(s) has already proven to be true.f) ☒ Other (EXPLAIN) Outgoing mail

3) Disclosure of information received.

The information received indicated the following: _____

AB member correspondences in which
AB gang business is discussed and
the member references that Ashker is to
be informed of this gang business.
Letter dated June 2001.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Conf memo dated 6/28/01 authored by
Sgt M Randolph located in Conf folder
Brase CCI

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C58191 INMATE NAME: Ashker, T

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☒ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following:

Identifies Ashker and other AB members / associates, orchestrating gang related meetings while in an outside court. This was 2/20/02 NOTE FOR CLARIFICATION-ASHKER WAS NOT OUT TO COURT AT THE TIME OTHER AB MEMBERS/ASSOCIATES WERE ORCHESTRATING GANG MEETING. THEY WERE ATTEMPTING TO GET AB MEMBERS/ASSOCIATES PULLED TO COURT.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Conf. Memo dated 6/29/01 authored by Sgt M. Ramirez located in Conf. folder file.

B. Rose CCI
STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

87 82069

P85P

STATE OF CALIFORNIA
CDC 128-B-2 (5/95)

DEPARTMENT OF CORRECTIONS

INMATE'S NAME: ASHKER, TODD

CDC NUMBER: C58191

On 05/23/88 a gang validation package regarding subject was received from Institution Gang Investigator ROSARIO at CSP-SAC. ADDITIONAL DOCUMENTATION WAS RECEIVED AT A LATER DATE.

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (18)
The following items meet the validation requirements: CONF MEMOS DATED 04/18/86, 08/06/87, 11/03/87, 12/02/87, 01/25/88, 02/08/88, 03/11/88, 03/22/88, 06/29/01, 06/18/01, 06/19/01, 07/16/01, 07/30/01, AND 08/22/01.

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (14)
The following items do not meet the validation requirements and were/shall not be used as a basis for validation: CONF MEMOS DATED 06/30/87, 09/17/87, 12/18/87, CDC 128B DATED 03/21/88.

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (4)

Date: 02/19/02

GANG VALIDATION/REJECTION REVIEW
(CONTINUED ON REVERSE)
LEIU/SSU

GENERAL CHRONO

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, TODD ASHKER is:

☒ **VALIDATED** ☐ **REJECTED**

as a member of the **ARYAN BROTHERHOOD** prison gang.

REVIEWER'S SIGNATURE
JUDY OLSON

DATE: 02/19/02

DISTRIBUTION:

Original - Central File
Copy - Classification & Parole Representative/Parole Administrator I
Copy - Institutional Gang Investigator/Region Gang Coordinator
Copy - Law Enforcement Liaison Unit
Copy - Inmate/Parolee

RECEIVED
02 FEB 22 AM 8 58
INVESTIGATIVE
SERVICES

STATE OF CALIFORNIA
CDC 128-B-2 (5/95)

REVIEW

DEPARTMENT OF CORRECTIONS

INMATE'S NAME: ASHKER, TODD

CDC NUMBER: C-58191

On 05/23/88 a gang validation package regarding subject was received from Institution Gang Investigator Lt. ROSARIO at CSP-SAC.

SUBSEQUENT INFORMATION WAS RECEIVED BY SSU FROM GANG INVESTIGATOR Lt. WISE AT PBSP. (UPDATED ITEMS LISTED IN ITALICS).

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (20)

The following items meet the validation requirements: CONF MEMO dated 04/18/86 (informant), CONF MEMO dated 08/06/87 (informant), CONF MEMO dated 11/03/87 (debrief), CONF MEMO dated 12/02/87 (informant), CONF MEMO dated 01/25/88 (debrief), CONF MEMO dated 02/08/88 ((debrief), CONF MEMO dated 03/11/88 (debrief), CONF MEMO dated 03/22/88 (debrief), *CONF MEMO dated 06/29/01 (debrief), CONF MEMO dated 06/18/01 (correspondence), CONF MEMO dated 06/19/01 (staff info), CONF MEMO dated 07/16/01 (debrief), CONF MEMO dated 07/30/01 (informant), CONF MEMO dated 08/22/01 (informant), CONF MEMO dated 02/23/01 (informant), and CONF MEMO dated 02/22/01 (staff info-association).*

THIS VALIDATION WAS RE-EVALUATED AS PART OF THE LEIU/SSU REVIEW.

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (16)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation: CONF MEMO dated 06/30/87 (same source/info as CM dated 08/06/87), CONF MEMO dated 09/17/87, CONF MEMO dated 12/18/87, and CDC-128B dated 03/21/88.

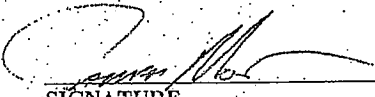
TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (4)

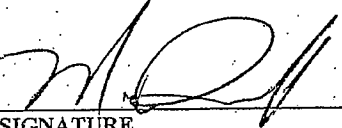
ACTION OF REVIEWERS

Pursuant to the validation requirements established in 15 CCR Section 3378, TODD ASHKER is retained:

☒ X VALIDATED ☐ REJECTED

as a member of the ARYAN BROTHERHOOD (AB) prison gang.


SIGNATURE
CHAIRPERSON


SIGNATURE
MEMBER


SIGNATURE
MEMBER

JAMES MORENO
Printed Name

Michael Ruff
Printed Name

Ruben Roman
Printed Name

DATE: 7-8-03

GANG VALIDATION/REJECTION REVIEW
GENERAL CHRONO
LEIU/SSU

DISTRIBUTION:

Original - Central File
Copy - Classification & Parole Representative/Parole Administrator I
Copy - Institutional Gang Investigator/Region Gang Coordinator
Copy - Law Enforcement Liaison Unit
Copy - Inmate/Parolee

EXHIBIT B

STATE OF CALIFORNIA—DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

DIVISION OF ADULT OPERATIONS
PELICAN BAY STATE PRISON5905 Lake Earl Drive
P. O. Box 7000
Crescent City, CA 95532-7000

DECLARATION OF CUSTODIAN OF RECORDS

I, Donna Sackett, declare as follows:

I am a Correctional Case Records Manager employed by the California Department of Corrections and Rehabilitation at Pelican Bay State Prison, Crescent City, CA. In this capacity, I am the duly authorized custodian of records maintained on inmates committed to the custody of the California Department of Corrections and Rehabilitation and housed at this institution.

A central file is maintained on each inmate housed in the California Department of Corrections and Rehabilitation. The file is maintained by the Records Office at each institution housing the inmate, and transferred with the inmate to any other institution. The documents and entries in documents pertaining to an inmate are prepared at or near the time of their occurrence by persons with knowledge of the circumstances or events. The documents attached hereto are true and correct copies of documents from the file of Inmate Troxell, CDC# B76578 maintained in the regular course of business by the Department of Corrections and Rehabilitation at this institution.

I declare under penalty of perjury that I am competent to testify as a witness and that the foregoing is true and correct, based on my personal knowledge. Except for those statements based on information and belief and as to those statements I believe them to be true, and that if called as a witness, I would so testify.

Executed on 2/26/08 at Crescent City, California

Donna Sackett
DONNA SACKETT
Correctional Case Records Manager

STATE OF CALIFORNIA
CDC 128-B-2 (5/95)

DEPARTMENT OF CORRECTIONS

INMATE'S NAME: Troxell, Danny

CDC NUMBER: B-76578

On 05/25/89 a gang validation package regarding subject was received from Institution Gang Investigator C. Ford at CCL

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (5)

The following items meet the validation requirements: CM 01/09/89; CM 08/10/88; CM 08/05/88; CM 07/26/88; CM 05/02/88 ✓

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (5)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation: none.

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (0)

- 1030 noted

GANG VALIDATION/REJECTION REVIEW
(CONTINUED ON REVERSE)

Date: 08/01/95

GENERAL CHRONO

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, Danny Troxell is:

☒ VALIDATED ☐ REJECTED

as a member of the Aryan Brotherhood prison gang.

REVIEWER'S SIGNATURE

J. Olson

DATE: 08/01/95

DISTRIBUTION:

Original - Central File

Copy - Classification & Parole Representative/Parole Administrator I

Copy - Institutional Gang Investigator/Region Gang Coordinator

Copy - Law Enforcement Liaison Unit

Copy - Inmate/Parolee

STATE OF CALIFORNIA
CDC 128-B-2 (5/95)

SHU REVIEW/ INACTIVE REVIEW

DEPARTMENT OF CORRECTIONS

INMATE'S NAME: TROXELL, DANNY

CDC NUMBER: B-76578

On 05/25/89 a gang validation package regarding subject was received from Institution Gang Investigator C. FORD at CCI.

SUBSEQUENT INFORMATION WAS RECEIVED BY SSU IN JUNE, 2001, FROM GANG INVESTIGATOR LT. G. WISE AT PBSP. (UPDATED ITEMS LISTED IN ITALICS).

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (7)

The following items meet the validation requirements: CONF MEMO dated 05/02/88, CONF MEMO dated 07/26/88, CONF MEMO dated 08/05/88, CONF MEMO dated 08/10/88, CONF MEMO dated 01/09/89, CONF MEMO dated 09/20/99, and CONF MEMO dated 08/03/00.

THIS VALIDATION WAS RE-EVALUATED AS PART OF THE LEIU/SSU REVIEW.

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (7)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation: none.

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (0)

ACTION OF REVIEWERS

Pursuant to the validation requirements established in 15 CCR Section 3378, DANNY TROXELL is:

☒ X VALIDATED ☐ REJECTED

as a member of the ARYAN BROTHERHOOD prison gang.

SIGNATURE
CHAIRPERSONSIGNATURE
MEMBERSIGNATURE
MEMBERSARLES MOESNO
Printed NameMichael Ruff
Printed NameReuben Roman
Printed NameDATE: 7-8-03GANG VALIDATION/REJECTION REVIEW
GENERAL CHRONO
LEIU/SSU

Subject is eligible for an

inactive review

Based upon

8-2006
dated 8-3-2000
Cedf. Memo

DISTRIBUTION:

Original - Central File
Copy - Classification & Parole Representative/Parole Administrator I
Copy - Institutional Gang Investigator/Region Gang Coordinator
Copy - Law Enforcement Liaison Unit
Copy - Inmate/Parolee

EXHIBIT C

CERTIFICATION

I hereby certify that the attached documents are true and correct copies of the documents constituting the record of the claim of:

TODD ASHKER; C58191

Claim Number G 548694

Date of Incident:

February 23, 2004

The record includes the claim, any amendments to the claim, all notices or correspondences to and from claimant.

Attest my hand and seal of the Victim Compensation and Government Claims Board of the State of California this day.

Executed at Sacramento, California, January 18, 2006

A handwritten signature in cursive script, reading "Lynette Raulien", is written over a solid horizontal line.

LYNETTE RAULIEN
PROGRAM ANALYST

JAN/10/2006/TUE 03:10 PM

P. 002

BILL LOCKYER
Attorney General

COPY

State of California
DEPARTMENT OF JUSTICE



Victim Compensation and
Government Claims Board

JAN 12 2006

RECEIVED

January 10, 2006

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 455-9555
Facsimile: (916) 322-8288
(916) 324-5397
E-Mail: Darlene.Macias@doj.ca.gov

Victim Compensation and Government Claims Board
Government Claims Branch
660 J Street, Suite 300
Sacramento, CA 95814

VIA FACSIMILE
(916) 322-8288

RE: REQUEST FOR CLAIM SEARCH

1. Search for a claim and/or late claim application filed by:

CLAIMANT: Todd Ashker, Danny Troxell v. Arnold Schwarzenegger, et al.
U.S.D.C., Northern District of California, No. C-04-1967 CRB

CLAIM NUMBER: Unknown

548694

DATE OF INCIDENT: Todd Ashker - January 1, 1998 - to present
Danny Troxell - January 1, 1995 - to present

2-23-04 ✓

2. After search is complete, please:

Provide a certified copy of the claim(s).

3. Please place the documents in the A.G. mail basket located at the Board (AG courier will pick up)

4. Requested by: **Joan Chiccarella**
OFFICE OF THE ATTORNEY GENERAL
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102 (415) 703-5774

Sincerely,

Joan Chiccarella
Associate Governmental Program Analyst

For **BILL LOCKYER**
Attorney General

COPY



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION
P O BOX 3035
Sacramento, California 95812-3035
Toll Free Number: 1-800-955-0045
Fax Number: (916) 323-5768
Internet: www.bcc.cahwnet.gov

KAREN McGAGIN
Executive Officer

FRED AGUIAR
Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY
State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

Todd Ashker C58191
P O Box 7500
Crescent City, CA 95532

November 4, 2004

RE: Claim G548694 for Todd Ashker, C58191

Dear Todd Ashker,

The Victim Compensation and Government Claims Board rejected your claim at its hearing on October 29, 2004.

If you have questions about this matter, please mention letter reference 123 and claim number G548694 when you call or write your claim technician or analyst at (800) 955-0045.

Sincerely,

Christina M. Aceituno, Program Manager
Government Claims Branch
Victim Compensation and Government Claims Board

cc: B-23 Corrections, Attn: Kirsten Cantrell
GCB Staff

Warning

Subject to certain exceptions, you have only six months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately. PLEASE CONSULT GOVERNMENT CODE SECTION 955.4 FOR PROPER SERVICE OF SUMMONS AND COMPLAINT.

Ltr 123 Claim Rejection

COPY



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION
P O BOX 3035
Sacramento, California 95812-3035
Toll Free Number: 1-800-955-0045
Fax Number: (916) 323-5768
Internet: www.boc.cahwnet.gov

KAREN McGAGIN
Executive Officer

FRED AGUIAR
Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY
State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

Todd Ashker C58191
P O Box 7500
Crescent City, CA 95532

October 18, 2004

RE: Claim G548694 for Todd Ashker, C58191
Tort claim for CDC Inmates, General/Punitive Damages

Dear Todd Ashker,

You were previously notified that your claim was scheduled to be acted upon by the Board at the October 22, 2004 hearing.

Your claim has now been set for action at the October 29, 2004 Board hearing in Sacramento.

You are not scheduled for an appearance at the hearing and do not need to appear. The Board will act on the recommendation previously supplied by staff.

You will be notified of the Board's decision, in writing, within approximately 3 weeks after the hearing.

Sincerely,

Government Claims Branch
Victim Compensation and Government Claims Board

cc: B-23 Corrections, Attn: Kirsten Cantrell
GCB Staff

Ltr 6 Hearing Dt Chg



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION

P.O. BOX 3035

Sacramento, California 95812-3035

Toll Free Number: 1-800-955-0045

Fax Number: (916) 323-5768

Internet: www.boc.cahwnet.gov

KAREN MCGAGIN
Executive Officer

FRED AGUIAR

Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY

State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS

San Bernardino County District Attorney
Board Member

COPY

Todd Ashker C58191

P O Box 7500

Crescent City, CA 95532

September 01, 2004

RE: Claim G548694 for Todd Ashker, C58191

Tort claim for CDC Inmates, General/Punitive Damages

Dear Todd Ashker,

The Victim Compensation and Government Claims Board (Board) received your claim on August 05, 2004.

Based on its review of your claim, Board staff is recommending to the Board that the claim be rejected as the Department of Corrections has rejected the claim at its third level of review.

The Board will act on your claim at the October 22, 2004 hearing. We will notify you by mail of the Board's action on your claim shortly after the hearing.

If you have questions about this matter, please mention letter reference 44 and claim number G548694 when you call or write your claim technician/analyst at (800) 955-0045.

Sincerely,

Government Claims Branch

Victim Compensation and Government Claims Board

cc: B-23 Corrections, Attn: Kirsten Cantrell

GCB Staff

Ltr 44 Third Level Review

State of California
Board of Control
GOVERNMENT CLAIM

SBOC-GC-0002 (Rev. 6/00)

Please read "Instructions for Filing a Claim"

If you are filing this claim beyond six months from the incident date, please see instructions for filing a late claim application on the opposite page.

G

548694

Section 1: Claimant Information

Name of Claimant

Telephone Number (include area code)

Mailing Address

City

State

Zip Code

Section 2: Claim InformationIs the claim filed on behalf of a minor? ☐ Yes ☒ No If yes, please indicate: Relationship to the minor

Date of birth of the minor

CAL. DEPT. OF CORRECTIONS & STATE PAROLE BOARD

Name of State Agency against which this claim is filed

Gov. SCHWARTZENEGGER & SECRETARY R. HICKMAN, et al

Incident Date

Dollar Amount of Claim

(12+) YEARS & COUNTING

TEN MILLION DOLLARS

If the amount exceeds \$10,000, indicate type of civil case:



Limited Civil Case



Non-Limited Civil Case

Explain how the dollar amount claimed was computed. (Attach three copies of the supporting documentation for the amount claimed with this form.)

Describe the specific damage or injury incurred as a result of the incident.

SUBJECTION TO PRSP - SECURITY HOUSING UNIT, ON-GOING & PROGRESSIVELY PUNITIVE CONDITIONS FOR OVER (12) YRS (TOTAL)

BECAUSE (CAC) HAS FALSELY LABELED ME AN ACTIVE GANG MEMBER, & I REFUSE TO BECOME A (CAC) INFORMANT, (CAC)

STAFF HAVE TAKEN DENIED ME OPPORTUNITY & ACCESS TO VARIOUS

REHAB. TYPE PROGRAMS THAT ARE REQUIRED FOR MEANINGFUL

CONSIDERATION OF PAROLE. BOTH (CDC & BPT) AGENCIES HAVE

SUBJECTED ME TO THEIR BLANKET "NO PAROLE POLICY" DUE

TO MY (SHU) STATUS, STATING THAT UNTILL I AGREE TO

BECOME THEIR INFORMANT I HAVE NO REHAB. PROGRAMS

HOPEING & WILL STAY IN (SHU) UNTILL I DIE.

PLAIN THE CIRCUMSTANCES THAT LED TO THE ALLEGED DAMAGE OR INJURY. State all facts that support your claim against the State of California; and

If you believe the State is responsible for the alleged damage, or injury. If known, provide the name(s) of the State employee(s) who

allegedly caused the injury, damage or loss. (If more space is needed, please attach additional sheets.)

SEE ATTACHED (CAC - GOV. APPEAL) BEGAN ON 2-23-04, SECTION "A TO H" w/ RECALLS. THE

STATE EMPLOYEES RESPONSIBLE ARE GOV. SCHWARTZENEGGER, SECRETARY OF ADULT CORRECTIONS & PAROLE R. A.

HICKMAN; FORMER (CAC) DIRECTORS GOMEZ, TERRELL & ALAMEDA; CURRENT DIRECTOR, WOODFORD; PRSP -

WARDEN McGRATH; ACTING WARDEN DILLARD; ASSOC. WARDEN CASTELLANO, ~~STAFF~~ CORR. COMMISSIONER II

LAWLES. EACH OF WHOM IS RESPONSIBLE FOR PROVIDING REHAB PROGRAMS TO ALL PRISONERS IN (CDC) & (SHU) PER

VERTICALLY IS & RULES & REGULATIONS, & EACH HAS KEPT ME IN (SHU) BASED ON FALSE PREMISES & WARNED

HAND IN HAND WITH (BPT - MEMBERS) DALY, LAWIN, LEHMAN, RISEL, MOORE & ROOS, TO SUBJECT ME

TO A BLANKET "NO-PAROLE POLICY" FOR ALL (SHU) PRISONERS; & BASICLY, THEY'VE TOLD ME THAT

UNLESS, & UNTILL I AGREE TO BECOME A "SUCCESSFUL" CAC INFORMANT I WILL NEVER BE GIVEN

USEFUL REHAB. OPPORTUNITIES & CAN EXPECT TO STAY IN (SHU). (SEE ALSO ATTACHED BPT APPEAL & REPLY)

UNTILL I DIE. *BY FALSE PREMISES, I MEAN CONTRARY TO (CAC) RULES & REGULATIONS IN TITLE 15)

FAILURE TO COMPLY WITH STATE REGULATIONS/LAW RE REHAB -

PROGRAMS RESULTING IN A "NO-PAROLE" POLICY (OF CAC & BPT) ETC.

LOCATION OF THE INCIDENT (If applicable, include street address, city, or county, highway number, post mile number and direction of travel.)

PELICAN BAY STATE PRISON

5905 LAKE EARL DR.

CRESCENT CITY, CAL. 95531

Preferred Hearing Location (if an appearance is necessary):

☐ Sacramento ☒ Los Angeles☐ Oakland ☐ San Diego

State of California
Board of Control

GOVERNMENT CLAIM

OC-6C-0002 (Rev. 6/00) Reverse

Submit completed claim form and three copies to:

STATE BOARD OF CONTROL
GOVERNMENT CLAIMS BRANCH
P.O. Box 3035
Sacramento, CA 95812-3035

Section 3: Insurance Information (must be completed if claim involves auto, motor vehicle)

Is the claim for the alleged damage/injury been filed
will it be filed with your insurance carrier?

☐ Yes

☐ No

Policy Number

Telephone number (include area code)

()

Mailing Address

City

State

Zip Code

Name of insurance carrier

Amount of Deductible

\$

Are you the registered owner?

Yes

☐ No

Make: _____ Model: _____ Year: _____

Section 4: FOR STATE AGENCY USE ONLY (must be completed by the State agency presenting claim)

Name of State agency

Budget Act Appropriation or Item Number and the appropriate
Schedule if applicable

Name of fund or account

Name of agency budget officer or representative

Title

CALNET Number

Signature of agency budget officer or representative

Date

Section 5: Representative Information (must be completed if claim is being filed by an attorney or authorized representative)

Name of Attorney/Representative

Telephone Number (include area code)

()

Mailing Address

City

State

Zip

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any town, city, district, ward, or village, board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher or writing, is guilty of a felony."

Signature of Claimant

Date

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: **JUL 22 2004**

In re: Ashker, C-58191
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

IAB Case No.: 0311730

Local Log No.: PBSP 04-00566

This matter was reviewed on behalf of the Director of the California Department of Corrections (CDC) by Appeals Examiner R. Floto. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that the institution has improperly denied recreational, vocational and educational programs while in Security Housing Unit (SHU) placement. The appellant contends that he is a SHU life term inmate and that he is denied the ability to participate in programs that are required by the Board of Prison Terms (BPT). He requests to be provided access to programs required by the BPT.

II SECOND LEVEL'S ARGUMENT: The reviewer found that the appellant is being provided appropriate access to programs for an inmate housed in SHU. The appellant is in SHU placement based upon his behavior and actions. Due to the dangerous nature of inmates housed in SHU, programs that the appellant has requested must be limited based upon safety and security concerns. The programs required by the BPT are for rehabilitation. The appellant is a management problem and his placement SHU demonstrates that he has not made an attempt to be rehabilitated.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Second Level response is appropriate and the decision is based upon a reasonable penological interest. It represents CDC's position. The Second Level of Review response is comprehensive. The appellant has not provided a compelling argument to warrant modification of the decision reached by the institution. The appellant has been provided access to all programs afforded to SHU inmates at the institution. His request to be provided access to programs required by the BPT cannot be granted.

B. BASIS FOR THE DECISION:
California Code of Regulations, Title 15, Section: 3044, 3343

C. ORDER: No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDC.

T. Surges
4

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, PBSP
Appeals Coordinator, PBSP

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE
APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1.

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Todd ASHKEP	C# 58191	PBSP (SHU) INDETERMINATE	C8-101

A. Describe Problem: THIS IS AN APPEAL ON BEHALF OF ASHKEP & TROXELL, B# 76578 (PER. CCR TITLE 15 § 3094.2 (F).) APPELLANTS HAVE BEEN ON INDETERMINATE (SHU) STATUS FOR THE LAST 12 TO 18 YRS (SOLELY FOR ADMINISTRATIVE REASONS). BOTH ARE SERVING SENTENCES OF "LIFE" WITH THE POSSIBILITY OF PAROLE. AS YOU KNOW, THE BOARD OF PRISON TERMS REQUIRES PRISONERS PARTICIPATION IN REHABILITATIVE TYPE PROGRAMS IN ORDER TO RECEIVE MEANINGFUL CONSIDERATION AT PAROLE HEARINGS. FOR THE PAST (18) YRS (CDC) STAFF HAVE NOT PROVIDED SUCH PROGRAM OPPORTUNITIES TO THOSE

If you need more space, attach one additional sheet.

SEE ATTACHED PAGE →

B. Action Requested: OPPORTUNITIES AND ACCESS TO PROGRAMS, SERVICES AND ACTIVITIES AS DESCRIBED IN THE ATTACHED PAGE.

Inmate/Parolee Signature: T. AshkenDate Submitted: 2-23-04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

5 NO# 32

MAR 05 2004

APR 12 2004

First Level ☐ Granted ☐ P. Granted ☒ Denied ☐ OtherE. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 3-10-04 Due Date: 4-16-04Interviewed by: See AttachedCPI CoxStaff Signature: [Signature]Title: CaptDate Completed: 4/2/04Division Head Approved: [Signature]Title: CM

Returned

Signature: [Signature]Date to Inmate: 4-6-04

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

WE ARE DISSATISFIED WITH 1ST LEVEL RESPONSE. THE TITLE 15 SECTION BY 1ST LEVEL HAS NOTHING TO DO WITH ISSUES AT ALL. INSTEAD 1ST LEVEL TOTALLY IGNORES THE TITLE 15 SECTIONS THAT WERE REFERENCED IN OUR LETTER. ATTEMPTED TO PROVIDE US WITH THE OPPORTUNITY(S) OF PROGRAMS DESCRIBED IN OUR ATTACHED PAGE AND 1ST LEVEL IGNORES OUR SPECIFIC POINTS STATING EXACTLY HOW WE CAN BE PROVIDED SAME PROGRAM. SEE ATTACHED PAGE.

Signature: T. AshkenDate Submitted: 4-11-04Second Level ☐ Granted ☐ P. Granted ☒ Denied ☐ OtherG. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 4-20-04 Due Date: 5-7-04☒ See Attached LetterSignature: [Signature]Date Completed: 4-22-04Warden/Superintendent Signature: [Signature]Date Returned to Inmate: APR 27 2004

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

SEE ATTACHED PAGE!
We are dissatisfied! Again, respondents ignore the referenced Title 15 sections which demand that the warden provide us with opportunity(s) at various programs. They ignore our specific points as to exactly how such programs can be provided without any security threats. The correspondence comes in and are expensive & work deal with self-harm etc. Respondent claim we are gang members & terrorists (without proof of any illegal activity) & state of patrol life position that we have become (CAC) informants & help to protect others will stay in (s) without program & should never get a parole date. (CAC) are the terrorists!

Signature: [Signature]Date Submitted: 4-29-04

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other☒ See Attached Letter

JUL 22 2004

Date: _____

1. (602) ATTACHED PAGE RE: SECTIONS A & B.
LOG # PBSA-009-00566

PRISONERS ON INDETERMINATE (SHU) STATUS (SUCH AS BUT NOT LIMITED TO - EDUCATION, VOCATION AND SELF-HELP COURSES); WHICH IN TURN HAS BEEN CAUSE FOR THE BOARD TO USE (SHU) PRISONERS' LACK OF PROGRAMMING TO JUSTIFY THEIR DENIAL(S) OF PAROLE AND SETTING OUR NEXT HEARING DATES OFF FOR (4 OR 5) YRS. IN THE FUTURE. (CDC) HAS THUS CONTRIBUTED, AT LEAST IN PART, TO THE BOARD'S BLANKET NO-PAROLE POLICY FOR (SHU) PRISONERS, WHICH IS A VIOLATION OF THE EX POST FACTO CLAUSE OF THE 14TH AMENDMENT TO THE U.S. CONST.

DENYING US THE OPPORTUNITY TO PARTICIPATE IN PROGRAMS REQUIRED BY THE BOARD HAS CAUSED, AND CONTINUES TO CAUSE US HARM, BY WAY OF MAKING IT IMPOSSIBLE FOR US TO MEET THE BOARD'S CRITERIA(S) FOR A PAROLE DATE (IT IS OUR DUE PROCESS RIGHT TO EXPECT RELEASE ON PAROLE PER, *McQuillion v. Duncan*, 306 F3d 895 (9TH CIR 2002 AT PGS 901-902); (CDC) & (PBSA) ADMINISTRATIVE STAFF ARE ALSO IN DIRECT VIOLATION OF THE PROVISIONS IN CCR TITLE 15 ARTICLE 3. WORK & EDUCATION § 3040(C) "A CLASSIFICATION COMMITTEE SHALL ASSIGN EACH INMATE TO AN APPROPRIATE WORK, EDUCATION, VOCATION, THERAPEUTIC OR OTHER INSTITUTIONAL PROGRAMS, AND CCR TITLE 15 § 3343 (K) "INSTITUTION PROGRAMS AND SERVICES. INMATES ASSIGNED TO SEGREGATED HOUSING UNITS will BE PERMITTED TO PARTICIPATE AND HAVE ACCESS TO SUCH PROGRAMS AND SERVICES AS CAN BE REASONABLY PROVIDED WITHIN THE UNIT WITHOUT ENDANGERING SECURITY OR THE SAFETY OF PERSONS. SUCH PROGRAMS AND SERVICES will include, BUT ARE NOT LIMITED TO: EDUCATION, SOCIAL SERVICES AND RECREATION

NOT LONG AGO (PBSA) INSTITUTED AN EDUCATION PROGRAM AVAILABLE TO (SHU) PRISONERS WITH T.V. § CALLED "G.E.D. EXPRESS"

such services to (SHU) inmates. Ashker was a (G.I.D.) already. We are respectfully asking (CDC) to immediately expand such services to include higher education - college level courses; vocational courses (such as; paralegal, Business Administration, Real Estate, Drafting and Architecture, Commercial Art etc.); and "self-help" courses (such as; AA/NA, Anger management etc.). These programs can easily be made available and conducted via instruction over the T.V. and in cell study materials - with whatever testing required held in the visiting room cells (that are empty (4) days a week) self-help - group - courses can consist of group meetings, therapy etc. Being held in visiting cells, as well as via the T.V. and in cell materials.

As for recreation - (SHU) is supposed to mirror (G.P.) absent legit - reasonable safety - security reasons, there is no legit reason for not putting pull-up & dip bars on these (SHU) yards... they can be placed so that they are immobile and attached to the wall & ground as they did in S.F. & Folsom (SHU) yards (including new Folsom B-Fac. concrete yards) Also - prisoners in segregated housing units are to be treated equally - thus, all (SHU) indet. prisoners should be able to get photos & order pizzas etc. the same as your de-briefing / inactive / and T.H.U. inmates can!

Feb. 23, 2004

Submitted by,

T. Ashker & Danny Troxell
T. ASHKER, C58191 DANNY TROXELL B-76578

SEE ATTACHED SUPPORTING DOCUMENTS
BOARD OF PRISONERS DECISION SHEET (8/7/03) FOR ASHKER

(B) SAME FOR TROXELL (7/10/01).

CB-101

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

OFFICE OF POLICY AND APPEALS

DECISION ON APPEAL

FORWARD TO INMATE/PAROLEE

Your appeal was received by the Board on November 5, 2003.

Decision you appealed:

Life parole consideration hearing of August 7, 2003. Parole denied. Next hearing in five years.

Reasons for your appeal:

1. The prisoner contends the hearing panel retried his case and failed to take into consideration the facts of the crime.
2. The prisoner contends his ex post facto rights were violated by a five-year denial.
3. The prisoner contends the hearing panel held his custody status against him in denying parole.
4. The prisoner contends the Board has a no parole policy for prisoner's placement on indeterminate SHU status.
5. The prisoner contends the hearing panel had no evidence to find he needed to participate in self-help and upgrade vocationally.

Decision by the Board on this appeal:☒ Denied

(No – the decision stays the same)

☐ Granted

(Yes – the decision will be changed)

☐ Dismissed or no action

(The appeal will not be looked at)

CDC Instructions for Grant: N/A

Name	<i>K. Res...</i>	BOARD PANEL Title Commissioner	Date	<i>1-13-04</i>
Name	<i>James M. ...</i>	BOARD PANEL Title Commissioner	Date	<i>1/13/04</i>

Instructions to staff:

CDC Staff to assist in reviewing appeal decision

Yes ☐No ☒

NAME	CDC #	PRISON/REGION	DATE
ASHKER, Todd	C-58191	PBSP Log #03-10-03	JAN 13 2004
CJB			

REASONS FOR DECISION

Introduction

Title 15 of the California Code of Regulations (15 CCR), § 2400 et seq., sets forth parole suitability criteria and procedures for life prisoners who committed murder on or after November 8, 1978. Prisoner rights are specified at 15 CCR §§ 2245 - 2256. Appeals from parole consideration hearings are governed by 15 CCR §§ 2050-2057.

Decision on Appeal

1. The prisoner contends the hearing panel retried his case and failed to take into consideration the facts of the crime.

Appeal Denied: The hearing panel does not retry the case but accepts as true the findings of the court. The panel was well aware that the prisoner was convicted of 2nd degree murder and relied on the Appellate decision for the statement of facts. The prisoner's claim of self-defense was noted on the record. Had the prisoner chosen to attend his hearing he would have had the opportunity to make any clarification in the statement of facts.

2. The prisoner contends his ex post facto rights were violated by a five-year denial.

Appeal Denied: Five year denials are permitted by P.C. § 3041.5(b)(2)(B). The hearing panel found, as required by P.C. § 3041.5 (b)(2)(B), that it was not reasonable to expect that the prisoner would not be found suitable for five years based on the following factors: the commitment offense in what some have described as an "Aryan Brotherhood hit", stabbed the victim twenty times causing his death. Further the prisoner has been involved in subsequent violent behavior while incarcerated and lacks program participation. Furthermore, *In re Morales* (1995) 514 U.S. 499; provides the Board with the following authority:

The Board retains the authority to tailor the frequency of subsequent suitability hearings to the particular circumstances of the individual prisoner....In light of the particularized findings required under the amendment and the broad discretion given to the Board, the narrow class of prisoners covered by the amendment cannot reasonably expect that their prospects for early release on parole would be enhanced by the opportunity of annual hearings. (At 5223, [emphasis added])

The reasons given and the findings made support a five-year denial. This was within the discretion of the panel under law and there is no evidence that this discretion was exercised improperly.

3. The prisoner contends the hearing panel held his custody status against him in denying parole.

Appeal Denied: Clearly the hearing panel takes into consideration the post-conviction factors in making a suitability finding. The Appeals Unit notes the prisoner's classification score is 358 points based mainly on his violent disciplinary history while in prison. The prisoner by his own actions has placed himself in the current custody situation where programs are not available. This is his choice and it is up to him to make the necessary

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

Page 3: DECISION ON APPEAL

changes in order to reduce his custody classification so that he can participate in self-help, academic and vocational programs.

4. The prisoner contends the Board has a no parole policy for prisoners placed in indeterminate SHU status.

Appeal Denied: The prisoner's contention has been addressed in Appeal issue #3.

5. The prisoner contends the hearing panel had no evidence to find he needed to participate in self-help and upgrade vocationally.

Appeal Denied: The prisoner states that the hearing panel improperly insisted that he participate in self-help and take vocational classes. He is mistaken. It is up to the hearing panel to make those types of suggestions or recommendations. The prisoner does not have to follow Board recommendations; it is up to him to decide. Hearing panel's do not fault prisoners for failing to complete programs that are unavailable to them except to the extent that the unavailability is due to conduct of the prisoner. To the extent that the custody level is due to the conduct of the prisoner, or that the prisoner has failed to complete recommended programming that is available, which reflects negatively on the prisoner.

The Appeal Unit finds in a review of the record that the prisoner began using heroin at the age of ten and lacks an employment history. The hearing panel's recommendations are valid. Had the prisoner decided to attend the hearing, he could have discussed them with the panel. The prisoner would have had the opportunity to ask the panel members why they feel this is necessary or explain why he doesn't think it is necessary if he had chosen to participate in the hearing. If he feels it is unnecessary he has the option of not doing the programming but this may be held against him when the next hearing panel finds that the prisoner did not comply with the previous panel's recommendations.

Exhaustion of Remedies

Since all grounds for appeal must be included in the same appeal (15 CCR § 2052(a) (2)), this decision is the final administrative decision on all issues from the decision in question. No further appeals or requests for review based on the issues from this decision will be accepted.

JAN 13 2004

PROOF OF SERVICE BY MAIL

(C.C.P. section 101a #2015.5; 20 U.S.C. section 1746)

I, T. Ashker, #58191, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below entitled action.

My Address is: P.O. Box 7500; Crescent City, CA 95531.

On the 2 day of Aug, in the year of 2004, I served the following documents: (set forth the exact title of documents served)

State of Calif - Govt Claims (Tort Claim w/ supporting documents)
To: State Bd of Control
(orig. + (3) copies)

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United states mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

State of Calif - Govt Claims Branch
P.O. Box # 3035
Sacramento, Cal.
95812-3035

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 2 day of Aug, 2004.

Signed: T. Ashker
 (Declarant Signature)

EXHIBIT D

CERTIFICATION

I hereby certify that the attached documents are true and correct copies of the documents constituting the record of the claim of:

DANNY TROXELL; B76578

Claim Number G 548600

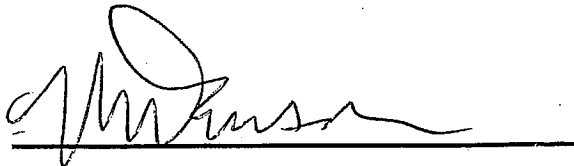
Date of Incident:

February 23, 2004

The record includes the claim, any amendments to the claim, all notices or correspondences to and from claimant.

Attest my hand and seal of the Victim Compensation and Government Claims Board of the State of California this day.

Executed at Sacramento, California, January 18, 2006

A handwritten signature in black ink, appearing to read "Mike Dawson", is written over a solid horizontal line.

MIKE DAWSON
PROGRAM ANALYST

BILL LOCKYER
Attorney General

COPY

State of California
DEPARTMENT OF JUSTICE



Victim Compensation and
Government Claims Board

JAN 12 2006

RECEIVED

January 10, 2006

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 455-9555
Facsimile: (916) 322-8288
(916) 324-5397
E-Mail: Darlene.Macias@doj.ca.gov

Victim Compensation and Government Claims Board
Government Claims Branch
660 J Street, Suite 300
Sacramento, CA 95814

VIA FACSIMILE
(916) 322-8288

RE: REQUEST FOR CLAIM SEARCH

1. Search for a claim and or late claim application filed by:

CLAIMANT: Todd Ashker, Danny Troxell v. Arnold Schwarzenegger, et al.
U.S.D.C., Northern District of California, No. C-04-1967 CRB

CLAIM NUMBER: Unknown

548600

DATE OF INCIDENT: Todd Ashker - January 1, 1998 - to present
Danny Troxell - January 1, 1995 - to present

2-23-04 ✓

2. After search is complete, please:

Provide a certified copy of the claim(s).

3. Please place the documents in the A.G. mail basket located at the Board (AG courier will pick up)

4. Requested by: Joan Chiccarella
OFFICE OF THE ATTORNEY GENERAL
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102 (415) 703-5774

Sincerely,

Joan Chiccarella
Associate Governmental Program Analyst

For **BILL LOCKYER**
Attorney General



COPY

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

GOVERNMENT CLAIMS DIVISION
P O BOX 3035
Sacramento, California 95812-3035
Toll Free Number: 1-800-955-0045
Fax Number: (916) 323-5768
Internet: www.boc.cahwnet.gov

KAREN McGAGIN
Executive Officer

FRED AGUIAR
Secretary
State and Consumer Services Agency
Chairperson

STEVE WESTLY
State Controller
State Controller's Office
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

Danny Troxell B76578
P O Box 7500
Crescent City, CA 95532

October 7, 2004

RE: Claim G548600 for Danny Troxell, B76578

Dear Danny Troxell,

The Victim Compensation and Government Claims Board rejected your claim at its hearing on September 24, 2004.

If you have questions about this matter, please mention letter reference 123 and claim number G548600 when you call or write your claim technician or analyst at (800) 955-0045.

Sincerely,

Christina M. Aceituno, Program Manager
Government Claims Branch
Victim Compensation and Government Claims Board

cc: B-23 Corrections, Attn: Kirsten Cantrell
GCB Staff

Warning

Subject to certain exceptions, you have only six months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately. PLEASE CONSULT GOVERNMENT CODE SECTION 955.4 FOR PROPER SERVICE OF SUMMONS AND COMPLAINT.

Ltr 123 Claim Rejection

August 16, 2004

State of California
Victim Compensation and Government Claims Board
Government Claims Branch
P.O. Box 3035
Sacramento, CA 95812-3035
(800) 955-0045 ATSS (916) 323-3564

COPY

Danny Troxell B76578
P O Box 7500
Crescent City, CA 95532

RE: Claim G548600 for Danny Troxell, B76578

Tort claim for CDC Inmates, General/Punitive Damages

Dear Danny Troxell,

The Victim Compensation and Government Claims Board (Board) received your claim on August 03, 2004.

Based on its review of your claim, Board staff is recommending to the Board that the claim be rejected as the Department of Corrections has rejected the claim at its third level of review.

The Board will act on your claim at the September 24, 2004 hearing. We will notify you by mail of the Board's action on your claim shortly after the hearing.

If you have questions about this matter, please mention letter reference 44 and claim number G548600 when you call or write your claim technician/analyst at (800) 955-0045.

Sincerely,

Government Claims Branch
Victim Compensation and Government Claims Board

cc: B-23 Corrections, Attn: Kirsten Cantrell
GCB Staff

Ltr 44 Third Level Review

State of California
Board of Control
GOVERNMENT CLAIM

SBOC-GC-0002 (Rev. 6/00)

Please read "Instructions for Filing a Claim"

If you are filing this claim beyond six months from the incident date, please see instructions for filing a late claim application on the opposite page.

G 548600

Section 1: Claimant Information

Name of Claimant

DANNY TROXELL, #B-76578

Telephone Number (include area code)

(1)

Mailing Address

P.O. Box #1500/C8-101

City

CRESCENT CITY, CAL.

State

Zip Code

95532

Section 2: Claim InformationIs the claim filed on behalf of a minor? ☐ Yes ☒ No If yes, please indicate: Relationship to the minor _____ Date of birth of the minor _____

Name of State Agency against which this claim is filed

CAL. DEPT. OF CORRECTIONS / STATE PAROLE BOARD
v. SCHWARTZENEGGER & SECRETARY HICKMAN, et al.
the amount exceeds \$10,000. Indicate type of civil case:☐ Limited Civil Case ☒ Non-Limited Civil CaseIncident Date
Month Day Year

Dollar Amount of Claim

ON-GOING FOR (19+) YEARS

TEN MILLION DOLLARS

Explain how the dollar amount claimed was computed.
(Attach three copies of the supporting documentation for the amount claimed with this form.)

Describe the specific damage or injury incurred as a result of the incident.

Subjected to PBSP - SECURITY HUSBAND UNITS AND/OR OF PROGRESSIVELY PUNITIVE CONDITIONS FOR OVER (19-YR) STAY & LABORED AN ACTIVE GANB MEMBER, BECAUSE I REFUSE TO BE A (CDC) INFORMANT, WHICH (CDC) STATE HAVE USED TO JUSTIFY DENYING ME OPPORTUNITIES & ACCESS TO VARIOUS REHAB. PROGRAMS THAT ARE NECESSARY & PROVIDED BY THE PAROLE BOARD FOR MEANINGFUL CONSIDERATION OF PAROLE DATE. AND THE POLICY & PRACTICES OF (CDC) & (PT) HAVE EFFECTIVELY SUBJECTED ME TO AN ILLEGAL NO-REHAB POLICY BECAUSE I'm in (SHU). I REFUSE TO BECOME THEIR INFORMANT, & UNABLE TO OBTAIN REHAB. PROGRAMS.

(19) YEARS & COUNTING OF (CDC'S) FAILURE TO PROVIDE REHAB. PROGRAMS; MISUSE & ABUSE OF GANB LABELING & (BPT) NO PAROLE POLICY, ETC. (SEE APPENDIX)

Location of the incident (If applicable, include street address, city or county, highway number, post mile number and direction of travel.)

POLICAN BAY STATE PRISON (SHU)
5905 LAKE GARD DR,
CRESCENT CITY, CAL. 95531

Preferred Hearing Location (if an appearance is necessary):

☐ Sacramento ☒ Los Angeles
☐ Oakland ☐ San Diego

State the circumstances that led to the alleged damage or injury. State all facts that support your claim against the State of California, and if you believe the State is responsible for the alleged damage, or injury. If known, provide the name(s) of the State employee(s) who allegedly caused the injury, damage or loss. (If more space is needed, please attach additional sheets.)

SEE ATTACHED (CDC-602 APPEAL) BEGAN ON 2-23-04, SECTION "A" TO "H" w/RESPONSES. THE STATE EMPLOYEES RESPONSIBLE ARE GOV. SCHWARTZENEGGER, SECRETARY OF ADULT CORRECTIONS AND PAROLE, R.Q. HICKMAN; FORMER (CDC) DIRECTORS GOMEZ, TERNUNE & ALAMEIDA; CURRENT DIRECTOR WOODFORD, PBSP WARDEN MC GRATH; ACTING WARDEN DILLARD; ASSOC. WARDEN CASTELLAN, CORR. COUNSELOR II HAWKS. EACH OF WHOM IS RESPONSIBLE FOR PROVIDING REHAB. PROGRAMS TO ALL PRISONERS IN (CDC) & (SHU) PER CCR TITLE 15 & RULES & REGULATIONS, & EACH HAS KEPT ME IN (SHU) BASED ON FALSE PREMISES & WORKED HAND IN HAND WITH (BPT-MEMBER) POLY, WELCH, GRANLUND & STAM, TO SUBJECT ME TO A BLANKET "NO-PAROLE POLICY" FOR ALL (SHU) PRISONERS; & BASICALLY, THEY'VE TOLD ME UNLESS & UNTIL I AGREE TO BECOME A "SUCCESSFUL" CDC INFORMANT I WILL NEVER BE GIVEN USEFUL REHAB. OPPORTUNITIES & CAN EXPECT TO STAY IN (SHU). UNTIL I DIE. (*BY FALSE PREMISES, I MEAN CONTRARY TO (CDC) TITLE 15 & RULES & REGULATIONS)

State of California
Board of Control
GOVERNMENT CLAIM

OC-GC-0002 (Rev. 6/00) Reverse

Submit completed claim form and three copies to:
STATE BOARD OF CONTROL
GOVERNMENT CLAIMS BRANCH
P.O. Box 3035
Sacramento, CA 95812-3035

Section 3: Insurance Information (must be completed if claim involves a motor vehicle)

Is the claim for the alleged damage/injury been filed
will it be filed with your insurance carrier?

☐ Yes

☐ No

Policy Number

Telephone number (include area code)

()

Billing Address

City

State

Zip Code

Name of insurance carrier

Amount of Deductible

\$

Are you the registered owner?

Yes

☐ No

Make: _____ Model: _____ Year: _____

Section 4: FOR STATE AGENCY USE ONLY (must be completed by the State agency presenting claim)

Name of State agency

Budget Act Appropriation or Item Number and the appropriate
Schedule if applicable

Name of fund or account

Name of agency budget officer or representative

Title

CALNET Number

Signature of agency budget officer or representative

Date

Section 5: Representative Information (must be completed if claim is being filed by an attorney or authorized representative)

Name of Attorney/Representative

Telephone Number (include area code)

()

Billing Address

City

State

Zip

Section 72 of the Penal Code provides that "every person who, with intent to defraud, presents for allowance or for payment to any State Board or Officer, or to any town, city, district, ward, or village, board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, guilty of a felony."

Signature of Claimant

Date

8-1-04

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: **JUL 22 2004**

In re: Ashker, C-58191
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

IAB Case No.: 0311730

Local Log No.: PBSP 04-00566

This matter was reviewed on behalf of the Director of the California Department of Corrections (CDC) by Appeals Examiner R. Floto. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that the institution has improperly denied recreational, vocational and educational programs while in Security Housing Unit (SHU) placement. The appellant contends that he is a SHU life term inmate and that he is denied the ability to participate in programs that are required by the Board of Prison Terms (BPT). He requests to be provided access to programs required by the BPT.

II SECOND LEVEL'S ARGUMENT: The reviewer found that the appellant is being provided appropriate access to programs for an inmate housed in SHU. The appellant is in SHU placement based upon his behavior and actions. Due to the dangerous nature of inmates housed in SHU, programs that the appellant has requested must be limited based upon safety and security concerns. The programs required by the BPT are for rehabilitation. The appellant is a management problem and his placement SHU demonstrates that he has not made an attempt to be rehabilitated.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Second Level response is appropriate and the decision is based upon a reasonable penological interest. It represents CDC's position. The Second Level of Review response is comprehensive. The appellant has not provided a compelling argument to warrant modification of the decision reached by the institution. The appellant has been provided access to all programs afforded to SHU inmates at the institution. His request to be provided access to programs required by the BPT cannot be granted.

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3044, 3343

C. ORDER: No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDC.

T. Surges
4

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, PBSP
Appeals Coordinator, PBSP

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE
APPEAL FORM**
 CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1.

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
TODD ASHKER	C#58191	PBSP (SHU) INDETERMINATE	C8-101

A. Describe Problem: THIS IS AN APPEAL ON BEHALF OF ASHKER & TROXELL, B#76578 (PER. CCR TITLE 15 § 3084.2 (F)) APPELLANTS HAVE BEEN ON INDETERMINATE (SHU) STATUS FOR THE LAST 12 TO 18 YRS (SOLELY FOR ADMINISTRATIVE REASONS). BOTH ARE SERVING SENTENCES OF "LIFE" WITH THE POSSIBILITY OF PAROLE. AS YOU KNOW, THE BOARD OF PRISON TERMS REQUIRES PRISONERS PARTICIPATION IN REHABILITATIVE TYPE PROGRAMS IN ORDER TO RECEIVE MEANINGFUL CONSIDERATION AT PAROLE HEARINGS. FOR THE PAST (18) YRS (CDC) STAFF HAVE NOT PROVIDED SUCH PROGRAM OPPORTUNITIES TO THOSE

If you need more space, attach one additional sheet.

SEE ATTACHED PAGE →

B. Action Requested: OPPORTUNITIES AND ACCESS TO PROGRAMS, SERVICES AND ACTIVITIES AS DESCRIBED IN THE ATTACHED PAGE.

Inmate/Parolee Signature: T. AshkerDate Submitted: 2-23-04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

BYPASS

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

Signature: _____

Date Submitted: _____

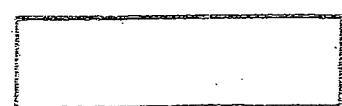
Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: _____

500#3P

MAR 05 2004

APR 12 2004



First Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other _____
 E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 3-10-04 Due Date: 4-16-04
 Interviewed by: See Attached
CPI Cox

Staff Signature: _____ Title: CAPT Date Completed: 4/6/04
 Division Head Approved: _____ Title: CM Returned _____
 Signature: _____ Date to Inmate: 4-6-04

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

WE ARE DISSATISFIED WITH 1ST LEVEL RESPONSE. THE TITLE 15 SECTION BY 1ST LEVEL HAS NOTHING TO DO WITH ISSUES AT ALL. NOTARIN 1ST LEVEL TOTALLY IGNORES THE TITLE 15 SECTION'S THAT WE'RE REQUESTING INMATE APPEALS WARDEN TO PROVIDE US WITH THIS OPPORTUNITY(S) of PROGRAMS DESCRIBED IN OUR ATTACHED PAGE AND 1ST LEVEL IGNORES OUR SPECIFIC POINTS STATING EXACTLY HOW WE CAN BE PROVIDED SAID PROGRAMS. SEE ATTACHED PAGE.

Signature: T. Ashken Date Submitted: 4-11-04

Second Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other _____
 G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 4-20-04 Due Date: 5-7-04
☒ See Attached Letter

Signature: J. Bauer Date Completed: 4-22-04
 Warden/Superintendent Signature: [Signature] Date Returned to Inmate: APR 27 2004

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

we're dissatisfied! Again, respondents ignore the referenced title 15 sections which state that the warden provide us with opportunity(s) at various programs. They ignore our specific points regarding how much programs can be provided without any security threats. The correspondence comes in and out of our executive & work deal with self-help etc. Respondents claim we're gang members & terrorists (without proof of any illegal activity) & state of court. If position, that we are not become (P.C.) informant & help to persecute others will stay in. Without program & growth we can get a parole date. (CAG) are the terrorists!

SEE ATTACHED PAGE!
 Signature: T. Ashken & P. Ashken Date Submitted: 4-29-04

For the Director's Review, submit all documents to: Director of Corrections
 P.O. Box 942883
 Sacramento, CA 94283-0001
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other _____
☒ See Attached Letter

JUL 22 2004

Date: _____

I. (602) ATTACHED PAGE RE: SECTIONS A & B.
LOG # PBSP-009-00566

PRISONERS ON INDETERMINATE (SHU) STATUS (SUCH AS BUT NOT LIMITED TO - EDUCATION, VOCATION AND SELF-HELP COURSES); WHICH IN TURN HAS BEEN CAUSE FOR THE BOARD TO USE (SHU) PRISONERS' LACK OF PROGRAMMING TO JUSTIFY THEIR DENIAL(S) OF PAROLE AND SETTING OUR NEXT HEARING DATES OFF FOR (4 OR 5) YRS. IN THE FUTURE. (CDC) HAS THUS CONTRIBUTED, AT LEAST IN PART, TO THE BOARD'S BLANKET NO-PAROLE POLICY FOR (SHU) PRISONERS, WHICH IS A VIOLATION OF THE EX POST FACTO CLAUSE OF THE 14TH AMENDMENT TO THE U.S. CONST.

DENYING US THE OPPORTUNITY TO PARTICIPATE IN PROGRAMS REQUIRED BY THE BOARD HAS CAUSED, AND CONTINUES TO CAUSE US HARM, BY WAY OF MAKING IT IMPOSSIBLE FOR US TO MEET THE BOARD'S CRITERIA(S) FOR A PAROLE DATE (IT IS OUR DUE PROCESS RIGHT TO EXPECT RELEASE ON PAROLE PER: MCQUILLON V. DUNCAN, 306 F3D 895 (9TH CIR 2002 AT PGS 901-902); (CDC) & (PBSP) ADMINISTRATIVE STAFF ARE ALSO IN DIRECT VIOLATION OF THE PROVISIONS IN CCR TITLE 15 ARTICLE 3. WORK & EDUCATION § 3040(C) "A CLASSIFICATION COMMITTEE SHALL ASSIGN EACH INMATE TO AN APPROPRIATE WORK, EDUCATION, VOCATION, THERAPEUTIC OR OTHER INSTITUTIONAL PROGRAMS, AND CCR TITLE 15 § 3343 (K) "INSTITUTION PROGRAMS AND SERVICES. INMATES ASSIGNED TO SEGREGATED HOUSING UNITS will BE PERMITTED TO PARTICIPATE AND HAVE ACCESS TO SUCH PROGRAMS AND SERVICES AS CAN BE REASONABLY PROVIDED WITHIN THE UNIT WITHOUT ENDANGERING SECURITY OR THE SAFETY OF PERSONS. SUCH PROGRAMS AND SERVICES will include, BUT ARE NOT LIMITED TO: EDUCATION, SOCIAL SERVICES AND RECREATION

NOT LONG AGO (PBSP) INSTITUTED AN EDUCATION PROGRAM AVAILABLE TO (SHU) PRISONERS WITH T.V. § CALLED "GED EXPRESS"

such services to (SHU) inmates. Ashker was a (G.E.D.) already. We are respectfully asking (CDC) to immediately expand such services to include Higher Education - college level courses; vocational courses (such as; Paralegal, Business Administration, Real Estate, Drafting and Architecture, Commercial Art etc.); and "Self-help" courses (such as; AA/NA, Anger management etc.). These programs can easily be made available and conducted via instruction over the T.V. and in cell study materials - with whatever testing required held in the visiting room cells (that are empty (4) days a week) Self-help - Group - courses can consist of group meetings, therapy etc. Being held in visiting cells, as well as via the T.V. and in cell materials.

As for recreation - (SHU) is supposed to mirror (G.P.) absent legit - reasonable safety - security reasons, there is no legit reason for not putting pull-up & dip bars on these (SHU) yards. ... They can be placed so that they are immobile and attached to the wall & ground as they did in S.F. & Folsom (SHU) yards (including new Folsom B-FAC. concrete yards) Also - prisoners in segregated housing units are to be treated equally - thus, all (SHU) indet. prisoners should be able to get photos & order pizzas etc. the same as your debriefing / inactive / and T.H.U. inmates can!

Feb. 23, 2004

Submitted by,

T. Ashker & Danny Troxell
T. ASHKER, C58191 DANNY TROXELL B-76578

SEE ATTACHED SUPPORTING DOCUMENTS
BOARD OF PRISONERS DECISION SHEET (8/7/03) FOR ASHKER

(A) ~~SEE ATTACHED SUPPORTING DOCUMENTS~~
(B) SAME FOR TROXELL (7/10/01).

CB-101

PROOF OF SERVICE BY MAIL

(C.C.P. section 101a #2015.5; 20 U.S.C. section 1746)

I, D. Trexell, B#76578, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below entitled action.

My Address is: P.O. Box 7500; Crescent City, CA 95531.

On the 2 day of Aug., in the year of 2004, I served the following documents: (set forth the exact title of documents served)

State Tort Claim w/ support documents TO: STATE Bd of Control
(orig + 3 copies)

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United states mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

State of Calif - Govt Claims Branch
P.O. Box 3035
SACRAMENTO, CAL.
95812-3035

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 2 day of Aug., 2004.

Signed: D. Trexell
(Declarant Signature)